ENERGY COMMISSION EXECUTIVE DIRECTOR NOTICE OF INTENT TO RELEASE AGGREGATED DATA

Background

The information provided by the state's load serving entities (LSEs) is a key part of the record for the *2005 Energy Report* proceeding. Evaluation of this information by Energy Commission staff and other parties will help inform the findings and recommendations in the *2005 Energy Report*, which in turn will form the basis for the transmittal of data and recommendations to the California Public Utilities Commission for the 2006 long-term procurement proceeding.

Much of the data supplied by investor-owned utilities (IOUs) and electricity service provider (ESPs) is being treated as confidential, either because the Executive Director determined that filers had made a reasonable claim that the information is entitled to protection, or because the process for resolving LSE appeals of Executive Director determinations that the data is not entitled to confidential protections is not yet complete.

The Energy Commission is committed to ensuring that the *2005 Energy Report* policy proceeding is conducted in an open and public manner. The *Energy Report* Committee expects that all the information that it considers in developing findings and recommendations in the *2005 Energy Report* and accompanying transmittal report for the CPUC will be part of the public record. While monthly demand and monthly specific resource data at the IOU bundled service load level has been granted confidentiality, the CPUC expects the Energy Commission to transmit information on the IOU positions through the *2005 Energy Report* process, and expects that all parties will have the opportunity to review and comment on this information. In order to meet this objective, the Energy Commission staff is developing summaries and aggregations of the confidential data for outside parties and Energy Commissioners to review. These summaries and aggregations will allow all parties to understand the supply/demand picture for the state and for the individual utilities. They protect the confidentiality of any underlying data that is confidential.

The IOUs have suggested that the Energy Commission's collaboration with the CPUC in the procurement process binds the Energy Commission to follow the CPUC's confidentiality determinations. While similar data has been provided to the CPUC for past proceedings, the data filed by the LSEs for the *2005 Energy Report* proceeding has not itself been reviewed for confidentiality by any other agencies. It therefore falls on the Energy Commission to determine whether this data should be shielded from release under the Public Records Act based on applicable laws and regulations. Even if it were appropriate for the Energy Commission to apply the

CPUC's requirements to this data, the CPUC has been directed by legislation to revisit its own approach to confidentiality, and expects to do so before the 2006 procurement proceeding begins.

Overview of Staff Proposals

The staff plans to release to the public aggregated data tables described in the three proposals below, which have been designed to mask the underlying resource plan data that has been designated as confidential. Each of the three proposals address both projected energy production and productive capacity of resources. Further, each of these tables will have annual and quarterly versions.

In all three sets of tables, the data will be aggregated in two dimensions: (1) along the time dimension, and (2) along the specificity of resource dimension by combining data about individual resources into categories of resources. The temporal aggregation will be from the monthly data submitted to quarterly and annual values. For the capacity tables, this aggregation will be developed by selecting values for the single month in which the forecast total peak demand is highest during the period, without identifying what month was selected. For example, in preparing an annual capacity from S-1 data if peak demand is highest in August for a specific year, all values for that year will be from August. For the energy tables, the data will be summed over the months in the relevant period. The quarterly data would be based on calendar quarters, and the annual data would be based on calendar years.

In addition, individual rows of resource-specific data from the submittals would be combined into various category subtotals. In these aggregated tables, staff will include all the rows relating to demand that do not reveal supplier categories, but will combine the specific resource listings (e.g. individual power plants, or individual contracts) into categories of resources (e.g. utility-controlled fossil resources, or existing & planned renewable contracts). Tables 1 and 2 at the end of this document summarize the categories staff will use for release of capacity and energy data, respectively. Staff has also prepared a template Excel spreadsheet similar to the public versions of forms S-1 and S-2 that the IOUs provided with their resource plan filings to use as a visual image of the annual version of the proposed tables. The quarterly version would simply have more columns.

The three sets of aggregated data tables differ based on the degree of geographic aggregation, and whether the scenarios filed by the LSEs are reported separately or are only shown as a range across scenarios. These differences are summarized as follows:

1. **IOU-specific tables for each scenario**: For each resource plan scenario, the staff will aggregate individual IOU bundled service customer data by aggregating monthly resource-specific entries to produce annual and quarterly subtotals by resource categories;

2. **Planning area tables for each scenario**: For each resource plan scenario, the staff will aggregate monthly resource-specific data for all LSEs serving load within a transmission planning area to produce annual and quarterly subtotals by resource categories; and

3. **Planning area tables showing capacity scenario ranges**: The staff will combine the results of the individual capacity scenarios for each planning area in the previous proposal to create a single table that shows the range of values.

These three proposals are discussed in more detail below. The staff believes that the first two proposals together provide the most appropriate level of disclosure consistent with protection of confidential data. The tables in the third proposal will only be produced if one or more LSE objects to either of the first two proposals.

The LSEs whose data is being aggregated can appeal the decision to release some or all of these tables to the full Energy Commission. No release of aggregated information that is the subject of an appeal to the full Commission will be allowed until the appeal is settled. In agreeing to or appealing the release of these three sets of aggregated data tables, the LSEs should consider the annual and quarterly versions separately, e.g. there are six proposed ways in which the data will be aggregated.

Proposal 1: IOU Bundled Customer Data

Under this proposal, staff will produce data tables consistent with Tables 1 and 2 for each of the IOUs, as described above. The tables will show annual and quarterly aggregated energy and capacity information for each IOU's bundled loads, for each of the four resource plan scenarios provided by the IOUs. These tables would be similar to the public versions of forms S-1 and S-2 that each IOU voluntarily provided, though they would provide more detailed information on categories of resources, particularly on the capacity side. The staff accepts the IOU suggestion that near term values have special sensitivity, so the tables would begin with year 2009.

The information included on these tables does not reveal the confidential data from the IOU filings, and is not itself entitled to confidential treatment. Aggregating supply data across the two dimensions (from monthly to annual and quarterly data and from individual resources to resource categories) does not reveal confidential monthly resource-specific data. Nor can these data aggregations be combined with other publicly available data to identify confidential monthly, individual resource-specific data for an individual IOU. This is due to the fact that in most of the resource categories, many individual resource entries are aggregated together into a single value. The only instances in which the number of individual resources comprising a category is small are when the resources are utility-owned. Substantial information is publicly available about these resources. IOU concerns about revealing how such

resources might be used to meet demand over time are addressed by providing only annual and quarterly values, and by keeping monthly patterns confidential.

The quarterly and annual demand aggregations for the top rows of the S-1 and S-2 forms are not themselves confidential for two reasons. First, the various adjustments from gross load to net load resulting from shifts in supplier from IOU to other LSEs have been aggregated into a single "load adjustment" row that does not reveal alternative supplier. Even for the individual sources of adjustment, in most instances the resource plan forms and instructions directed the nature of the adjustment. The magnitudes of these values as submitted in the S-1 and S-2 forms reveal more about implementation of Commission direction rather than predictions of loss of load from modeling and analyses reflecting the business assessments of the IOU. Second, the demand-side load adjustments resulting from energy efficiency, demand response, and distributed generation are largely a matter of public knowledge having been issued as programmatic goals by CPUC orders. At this level of aggregation, staff does not believe any confidential information is being released.

Finally, for the same reasons as those underlying the Executive Director's determination that annual demand forecast data should be public, the portions of Tables 1 and 2 that show Future Generic Resource Need should also be made public. In upholding that determination, the Commission focused on whether knowledge of the extent of the gap between supply and demand during the single hour of highest demand would affect a utility's bargaining power vis-à-vis its potential suppliers and purchasers. The Commission found the answer to this question was no. IOUs have already agreed that the energy version of this Generic Resource Need can be made public by SCE furnishing its Public S-2 tables, and PG&E and SDG&E furnishing their S-7 tables.

While this aggregation proposal adds information on resources, and further disaggregates demand and resource information to a quarterly level, the same principles lead to the conclusion that the information revealed under this proposal, at either the annual or quarterly level, is not a trade secret:

- data similar to most of the disputed information is publicly available;
- release of the annual or quarterly demand and resource data without specificity about when the single hour of peak demand will occur and how similar that hour is to any other hour during the period diminishes the value of the information; and
- potential sellers can offer a variety of products to meet the utilities needs, and the utilities have additional options for meeting peak demand in addition to purchases from third parties.

Limiting the release of the IOU-specific aggregated data to the years 2009 and beyond also minimizes any potential value of the data because additional suppliers will be able to enter the energy market by that time.

While the demand forecast determination upheld by the Energy Commission related only to annual data, we note that a recent CPUC administrative law judge ruling issued in R.04-04-003 and R.04-04-025 addresses confidential versus public designations for a wide range of data of similar data.[1] We understand this ruling to uphold the confidentiality of hourly and monthly data, but that it orders the IOUs to release quarterly demand forecasts and quarterly forecasts of utility-retained generation costs and production. While the Energy Commission is not bound by CPUC determinations on the public or confidential nature of similar data, this decision does demonstrate that the CPUC, which the Energy Commission has encouraged to be less protective of IOU data, believes that releasing quarterly demand data does not reveal trade secret information.

In discussing these aggregation proposals, IOUs have indicated that they believe any LSE-specific data aggregations should apply equally to all LSEs. Staff plans to apply this proposal only to the IOU data, and not to the ESP data. In general, the staff agrees that similarly situated entities should be treated in similar fashion. However, in this instance, the staff is attempting to provide information to the CPUC on regulated utility activity, and to allow parties that may participate in the CPUC's 2006 long-term procurement proceeding to have access to aggregated data that may be used in that proceeding. The staff does not anticipate including ESP data in the transmittal report to the CPUC, and so does not plan to release a set of ESP-specific aggregation tables based on this proposal. Finally, ESPs have justified their claims for confidentiality of data submitted into this proceeding by noting that they compete against each other, even though under the current suspension of direct access, the ESPs may not compete to acquire additional customers from IOUs. Thus, IOUs and ESPs are not similarly situated, and what is a trade secret for one is not necessarily a trade secret for another. Accordingly, staff believes that making distinctions between the treatment of different subsets of LSEs is justified.

Proposal 2: Aggregation of all LSE Loads and Resources within a Geographic Region

In this proposal, the load forecast and resource plan data from all LSEs serving load within a control area will be aggregated, with the exception of the California Independent System Operator (CAISO) control area. For that control area, the unit of aggregation will be the participating transmission owner (PTO) transmission planning area. Under this proposal, the IOU data would be combined with the data for all ESPs and municipal utilities within that IOU's planning area. As with Proposal 1, data tables would be created in this proposal for each of the four resource plan scenarios provided by the IOUs.

Aggregation of LSE Load Data within Planning Areas

[1] R.04-04-003 and R.04-04-025, Administrative Law Judges' Ruling on Protective Order and Remaining Discovery Disputes, May 9, 2005.

Specifically, staff plans to release aggregated load forecast data for the four major control areas (CAISO, LADWP, SMUD/ WAPA, and a grouping of the smallest control area and fragments of the state in non-California control areas). Table 3 identifies the four control areas and the assignment of LSEs to them and to the subsidiary planning areas of the CAISO control area. Three of these CAISO planning areas are based on the large IOU dominating that geographic region, while one consists of the State Water project within the Department of Water Resources (DWR).

Staff plans to use this aggregation of LSE loads in its demand forecast comparison report, which will compare the staff demand forecast to those provided by the LSEs. This report is scheduled for public release on June 13 and will be discussed at a workshop on June 29. Because LSEs with a peak demand of less than 200 MW were not required to submit demand forecasts, using planning area requires estimation of the loads associated with these small suppliers. Staff has prepared an estimate of peak demand for 2005 for determining the proportion that these loads represent of the total planning area; this estimate is sufficiently small that the smaller entities can be approximated without introducing appreciable error into the overall total.

This aggregation of IOU, ESP and municipal utility load data into three IOU-centric planning areas could create disclosure problems for any of the component LSE elements that need to be protected.[2] However, previous informal discussions with IOUs and ESPs found support for this general approach. Staff's assessment of the confidential data along with public data from municipal utilities and smaller ESPs and municipals that were not required to file in this *2005 Energy Report* cycle indicates that IOU load forecasts are in the range of 80 - 85% of planning area totals for year 2005. This percentage combined with the fact that the number of entities included in the aggregation is at least 10 or more LSEs per planning area sufficiently masks the underlying confidential data of each one of the LSEs.

Aggregation of Individual Resource Plan Scenarios within Planning Areas

LSEs were requested to provide monthly tabulations of individual resources for capacity and energy to serve load in Forms S-1 and S-2, respectively, for four scenarios. As with the reference case resource plans, the S-1 and S-2 forms for each of these alternative scenarios were granted confidentiality. Recognizing that some access to these data were necessary, the three IOUs provided public versions of these resource plan data by aggregating in two dimensions – from monthly to annual, and from resource-specific to resource-category.

Staff plans to provide separate aggregated tables for the individual resource plan scenarios for capacity and for energy on an annual and quarterly basis. These

[2] PG&E and SCE planning areas contain several municipal utilities that filed load forecasts and several more that did not. All three IOU-centric planning areas contain loads of small ESPs <200 MW peak demand that did not submit load forecasts.

scenarios reveal how each IOU proposes to adapt should an alternative future other than the reference case materialize. The size of the adjustments to load most fully characterizes each of the uncertainties about load (core/ non-core, community choice aggregation/ municipal departing load and levels of preferred loading order resources). The resulting resource plan scenario reveals how the IOUs would need to adapt their procurement actions to match such a load forecast when they identified it. The annual and quarterly resource category subtotal values are needed to understand the nature of the differences among the scenarios and the public policy consequences of the various scenarios.

Proposal 3: Further Aggregation Across IOU Resource Plan Scenarios

As a result of informal discussions with IOUs, the staff proposes a third aggregation proposal for capacity values that utilizes broader groupings. The tables in this proposal would collapse the separate capacity scenario tables for a given planning area into a single capacity table. The entries in this table would be the range of corresponding values from the separate scenario tables. If the values were common across all four scenarios, then a single value would be present in the cell. If there were four different values in the corresponding cells of each scenario, then the lowest and highest would be chosen and that range of values shown in the cell. Thus, the more that particular types of resources were affected in the development of the resource plan scenarios, the more that ranges would appear in the table rather than single values and the more that ranges would widen through time.

The interpretation of these tables would be difficult, since changes reflecting multiple sources of uncertainty would be intermingled. Because this proposal can be readily created from the tables in Proposal 2 and provides less information, staff would produce tables under this proposal only in cases where a pending appeal prevents the release of the corresponding Proposal 2 scenario tables. Staff has not included an energy version of this proposal, since the LSEs have informally agreed to Proposal 2 for the energy data.

Timing

The aggregations discussed above will appear as part of staff reports released in June commenting upon LSE submittals. These reports will be discussed in workshops in late June or July. Because of this schedule, and the need for 2005 *Energy Report* participants to utilize the results of these aggregation proposals in lieu of any access to underlying data that has been classified as confidential, it is critical that LSEs express agreement with those portions of this proposal they support as soon as possible, even if there are other portions they intend to oppose.

These plans to release aggregated data may be appealed to the Energy Commission within fourteen days. (Cal. Code Regs., tit. 20, 2507(e)(2).). Any appeal should specify which proposal, or which portion of a proposal, is being appealed. Those specific portions of any proposal that is appealed will not be released while that appeal is pending. In addition to docketing an appeal, copies should be provided to Kevin Kennedy, *Energy Report* project manager and Caryn Holmes, *Energy Report* Committee counsel.

Table 1. Proposed level of detail for release of aggregated annual and quarterly capacity resource data

PEAK DEMAND CALCULATIONS (MW):

- Reference Case Forecast Total Peak Demand
- Load Adjustment for a Scenario (-)
- Uncommitted Price Sensitive DR Programs (-)
- Uncommitted Energy Efficiency (2009-2016) (-)
- Distributed Generation (-)
- Net Peak Demand for Bundled Customers
- Net Peak Demand + 15% Planning Reserve Margin
- Firm Sales Obligations
- **Firm Peak Resource Requirement**

EXISTING & PLANNED RESOURCES

Utility-Controlled Fossil and Nuclear Resources:

- Nuclear
- Fossil
- **Total Dependable Fossil and Nuclear Capacity**

Utility-Controlled Hydroelectric Resources (1-in-2):

- Total for all plants over 30 MW nameplate
- Total for all plants 30 MW nameplate or less
- Pump Storage Generation
- **Total Dependable Hydro Capacity**

Total Utility-Controlled Physical Resources

EXISTING & PLANNED CONTRACTUAL RESOURCES

DWR Must-take Contracts:

- Contract A
- ….
- Contract N
- **Total DWR Contracts**

QF Dependable Capacity
Renewable Contracts
Other Bilateral Contracts
Short Term and Spot Market Purchases

TOTAL: EXISTING & PLANNED CAPACITY

- Existing Interruptible / Emergency (I/E) Programs
- Uncommitted Dispatchable Demand Response

TOTAL CAPACITY + I/E and UDDR

FUTURE GENERIC RESOURCE NEEDS

- Generic Renewable Resources
- Capacity of other Generic Additions
- **Total Capacity of Future Generic Resources**

Note: Dispatchable DWR contracts are included in the Other Bilateral Contracts.

Table 2. Proposed level of detail for release of aggregated annual and quarterly energy resource data

ENERGY DEMAND CALCULATIONS (GWh)

Reference Case Forecast Total Energy Demand
Load Adjustment for Scenario (-)
Uncommitted Energy Efficiency (2009-2016) (-)
Distributed Generation (-)
Net Energy Demand for Bundled Customers
Firm Sales Obligations
Total Energy Requirement

EXISTING & PLANNED RESOURCES
Utility-Controlled Fossil and Nuclear Resources:

Nuclear
Fossil
Hydro
Total Fossil and Nuclear Energy Supply

EXISTING & PLANNED CONTRACTUAL RESOURCES
Must-take DWR Contracts:

Contract A
….
Contract N
Total Energy Supply from DWR Contracts

Total Energy Supply from QF Contracts
Total Existing & Planned Renewable Contracts
Short Term and Spot Market Purchases

TOTAL: EXISTING & PLANNED ENERGY

FUTURE GENERIC RESOURCE NEEDS

Generic Renewable Energy
Generic Resource Addition Energy
Total Future Generic Resource Needs

Note: Dispatchable DWR contracts are included in the **Other Bilateral Contracts**.

Table 3. Definitions of proposed geographic areas for release of aggregated load forecast and resource plan data

Control Area	Component Planning Areas	Filings from LSEs in Area	Implementation Issues
CAISO	PG&E Planning Area (PA)[3]	IOU, ESPs >200 MW, ESPs < 200 MW, Munis	Requires effort to estimate loads for minor Munis and ESPs not submitting data
	SCE PA	IOU, ESPs >200 MW, ESPs < 200 MW, Munis, and MWD	Requires effort to estimate loads for minor Munis and ESPs not submitting data
	SDG&E PA	IOU, ESPs >200 MW, ESPs < 200 MW	Requires effort to estimate loads for minor ESPs not submitting data
	DWR (split into North and South)		Neither staff nor DWR have prepared a DWR demand forecast. DWR is busy with a major water study preceding a load forecast/resource plan effort.
LADWP	Single area	LADWP, Burbank and Glendale	None
SMUD	Single area	SMUD, Roseville, Redding and WAPA direct service	WAPA has not submitted data, but staff received a forecast via the PG&E transmission planning process
Other	Single area	IID, small portions of the Sierra Pacific and PacifiCorp service areas	Some aggregation necessary to protect IID resource plan data granted confidentiality

[3] IOU bundled customers average from 81-85% of the peak load in these planning areas.